

IN THE MICHIGAN COURT OF APPEALS

ORDER

Re: **Modern Living LLC v Ronald Wheatley**
Docket No. **268749**
L.C. No. **05-046973-CK**

William C. Whitbeck, Chief Judge, acting under MCR 7.203(F)(1) and 7.216(A)(10),
orders:

The claim of appeal and claim of cross appeal are DISMISSED for lack of jurisdiction because a final order as defined by MCR 7.202(6)(a)(i) has not been entered in the case yet. A dismissal of the two third party defendants of Dennis Foster and William Schuler without prejudice is not an adjudication of the rights and liabilities as to those two parties. See *Wickings v Arctic Enterprises*, 244 Mich App 125 (2000). In light of the fact that this dismissal without prejudice occurred at the time the plaintiff's complaint was dismissed but the trial court subsequently reinstated plaintiff's complaint and awarded a judgment for plaintiff, final resolution of third party defendants Dennis Foster and William Schular is required before an appeal of right is available.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

MAR 31 2006

Date

Sandra Schultz Mengel
Chief Clerk